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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

ARCHER NORRIS, a Professional
Law Corporation,

Debtor-In-
Possession.

Case No. 18-30924-HLB
Chapter 11

Date: August 8, 2019
Time: 10:00 a.m.
Place: 450 Golden Gate Avenue
Courtroom 19
San Francisco, California

**DECLARATION OF ROBERT G. HARRIS IN SUPPORT OF SECOND AND FINAL
APPLICATION FOR APPROVAL OF COMPENSATION AND REIMBURSEMENT
OF EXPENSES FOR OFFICIAL UNSECURED CREDITORS' COMMITTEE COUNSEL**

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1 I, Robert G. Harris, know that the following statements are true based on my personal
2 knowledge, except where indicated that it is of my information and belief, in which case I believe
3 the statement to be true. If called as a witness, I could and would testify competently to the
4 following:

5 1. I am a member of the State Bar of California in good standing and am admitted to
6 practice before this Court. I am a partner in Binder & Malter, LLP. My firm is counsel for the
7 Official Unsecured Creditors Committee (the "Committee").

8 2. On August 22, 2018, Archer Norris, a Professional Law Corporation (the "Debtor")
9 commenced the above-captioned Bankruptcy case by filing a voluntary petition under chapter 11 of
10 title 11 of the United States Code. The Debtor's case is being prosecuted in the United States
11 Bankruptcy Court for the Northern District of California, San Francisco Division, before the
12 Honorable Hannah L. Blumenstiel.

13 3. The Committee was appointed on September 10, 2018. [Dkt #70]. The Committee
14 filed its Ex Parte Application for Appointment of Attorneys for Attorneys for Official Unsecured
15 Committee (11 U.S.C. §327(a) FRBP 2014(a)) [Dkt. #94] ("Employment Application") on
16 September 19, 2019. The order of this Court approving the Employment Application was entered on
17 October 2, 2018 [Dkt. #134]. Your Applicant disclosed all connections with creditors and interested
18 parties known to it at the time in connection with its Employment Application.

19 4. One more connection was subsequently discovered and disclosed after the Debtor
20 amended its Mailing Matrix on September 27, 2018, adding a creditor which your Applicant
21 represents, from time-to-time, in other matters. After discovery of the connection, your Applicant,
22 on October 26, 2018, filed a Supplement to Verified Statement of Robert G. Harris In Support of Ex
23 Parte Application for Appointment of Attorneys for Official Unsecured Committee U.S.C. §327(a),
24 FRBP 2014(a)) [Dkt. #156] (the "Supplement"). The Supplement provides as follows in pertinent
25 part:

26 2. In the Application and Verified Statement, Binder & Malter
27 disclosed all connections with creditors and interested parties
28 known at the time. Debtor's subsequent amendment to its
schedules and MAL have brought to light one other connection:

1 8x8, Inc. ("8x8") provides clients with internet telephone services.
2 8x8 provided such services to the Debtor herein. Binder & Malter
3 provides general advisory services to 8x8 in national bankruptcy
cases.

4 3. Binder & Malter did not disclose this connection in the
5 Application or Verified Statement because as 8x8 was not listed in
6 the Debtor's initial filings from which the conflict check was
performed; 8x8 was only added later. The relevant sequence of
events is as follows:

- 7 a. 8x8 was not listed in the initial creditor matrix [Dkt #2]
8 filed with the Chapter 11 petition on August 22, 2018.
- 9 b. 8x8 was not listed in Debtor's Schedules of Assets and
10 Liabilities and Statement of Financial Affairs [Dkt #57]
11 filed on September 5, 2018.
- 12 c. The Debtor filed its Schedule G [Dkt #77] on September
13 12, 2018. 8x8 was listed in Schedule G, but the amended
creditor matrix [Dkt #115] listing 8x8 was not filed until
14 September 27, 2018.
- 15 d. The Application and Verified Statement were filed on
16 September 19, 2018.
- 17 e. At the time that Binder & Malter ran its conflict check of
filings in the case for potential conflicts, there was no
evidence that 8x8 was involved in the case.

18 4. Binder & Malter has not represented and will not represent 8x8 in
19 this bankruptcy or provide any legal advice with respect thereto.
20 All files will be maintained separately so as to create an ethical
wall as may be required to protect the interests of each client.

21 5. There is no risk of conflict. The Debtor filed an Omnibus Motion
22 to Reject Executory Contracts and Unexpired Leases Effective as
Of October 1, 2018 [Dkt #127] on October 1, 2018. 8x8 listed as
23 an affected party in Exhibit "A" to that Motion. A hearing is set
for November 1, 2018. No opposition to the motion has been
24 filed. After rejection of its contract, 8x8 will presumably file a
general unsecured claim for rejection damages. Bankruptcy Code
25 section 1103(b) requires that "[a]n attorney or accountant
employed to represent a committee appointed under section 1102
26 of this title may not, while employed by such committee, represent
any other entity having an adverse interest in connection with the
27 case." The filing of an unsecured claim in the case by a client of
the firm and inclusion of 8x8 thereby into the creditor body that
28

1 the unsecured creditors' committee represents, when the firm will
2 not represent the creditor in the case individually, presents no
3 conflict for Binder & Malter as committee counsel. There will be
4 no concurrent representation in the Archer Norris bankruptcy. *See*
5 *In re Roberts*, 46 B.R. 815, 824, 1985 Bankr. LEXIS 6788, *19
6 (Bankr. D. Utah, 1985) (the Code (then a bill) ... "requires that
7 counsel to the creditors' committee cease any representation of
8 creditors in their individual capacities in connection with the case .
9 ... It does not require the attorney to cease representation of the
10 creditors in matters unrelated to the case. It merely sets out a
11 mandatory anti-conflict of interest rule for each case.").

12 Supplement, 2:1-3:10.

13 5. Your Applicant is a law partnership. Each of the attorneys who have performed
14 services for which compensation is sought is duly licensed and admitted to practice before the
15 above-entitled Court.

16 6. Your Applicant has not received any payment or other compensation for services
17 rendered prior to the date of this Application except as disclosed herein.

18 7. To the best of my knowledge, information and belief, no agreement or understanding
19 exists between my firm and any other person or entity for the sharing of compensation to be received
20 for the services rendered in, or in connection with this case, except for the regular members of my
21 firm.

22 8. On July 15, 2019, at least twenty-one days before the August 8, 2019 hearing date,
23 my firm sent a letter to the members of the Committee notifying them of the Committee's rights as
24 required by Guideline Number 7 of the Guidelines for Compensation and Expense Reimbursement
25 of Professionals and Trustees. A true and correct copy of the letter is attached hereto as Exhibit "A".

26 9. At all times during its representation of the OCC, my firm has adhered to the
27 Guidelines for Compensation and Expense Reimbursement of Professionals (the "UST Guidelines")
28 as issued by this Court on January 1, 1997, as revised November, 2009.

10. As part of Applicant's ordinary billing procedures, Applicant reviews a draft bill of
services rendered for each period, categorizes said entries, corrects typographical errors, and writes-
off attorney time on an entry-by-entry basis when deemed appropriate in Applicant's discretion. A
true and correct copy of my firm's billing statement is attached hereto as Exhibit "B". A table

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1 summarizing those write-offs appears at the end of Applicant's bill at page 11 and in the Application
2 at page 5. In total, your Applicant listed 4.60 hours of time as "no charge" that had, at applicable
3 hourly rates, a total value of \$1,820.00.

4 **CERTIFICATION**

5 12. The following statements are made in conformance with Guideline 8 of the UST
6 Guidelines:

7 a. I have read the Second and Final Application for Approval of Compensation
8 and Reimbursement of Expenses for Official Unsecured Creditors' Committee Counsel (the
9 "Compensation Application") filed in this case. All of the statements contained therein are true and
10 correct to the best of my knowledge, information and belief formed after reasonable inquiry from
11 preparing said application.

12 b. The aforementioned Compensation Application is, to the best of my
13 knowledge, information and belief, in conformity with the Guidelines except as where otherwise
14 noted therein.

15 c. The compensation and expense reimbursement sought are billed at rates in
16 accordance with my firm's practice, and are no less favorable than those customarily employed by
17 my firm and generally accepted by my firm's clients.

18 d. All expenses for which reimbursement is sought in the Compensation
19 Application are actual expenses, as that term is defined in the Guidelines.

20 e. The billing statements attached hereto are true and correct copies of the
21 contemporaneous time records which identify the timekeeper performing the service, time and
22 dollars expended on each entry and a description of the service performed. Pursuant to Guidelines 3
23 and 10 of the UST Guidelines, the entries have been categorized and reordered to reflect the
24 particular task described in each entry.

25 I declare under penalty of perjury of the laws of the United States that the foregoing is true
26 and correct. Executed this 15th day of July, 2019, at Santa Clara, California.

27 /s/ Robert G. Harris

28 Robert G. Harris